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ORIGINAL

JOHN B. ADAMS Senior Attorney

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August 25, 1997

William F. Caton, Secretary
Federal Communications Commission
Room 222
1919 M Street, NW
Washington, DC 20554

Dear Mr. Caton:

Enclosed for filing is an original and four copies of the comments of Citizens Communications regarding the Paperwork Reduction Act analysis in the further notice of proposed rulemaking, FCC 97-254, in MD Docket 96-186. Also enclosed is a receipt copy.

Please date stamp the enclosed receipt copy and return it to the messenger delivering these materials.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in cursive script that reads "John B. Adams".

John B. Adams
Senior Attorney

CC: Judy Boley, FCC
Timothy Fain, OMB

Enclosure

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**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554**

RECEIVED

AUG 25 1997

In the Matter of)
)
Implementation of Section 9 of the)
Communications Act)
)
Assessment and Collection of Regulatory)
Fees for Fiscal Year 1997)

MD Docket No. 96-186

**COMMENTS OF CITIZENS COMMUNICATIONS ON PAPERWORK REDUCTION
ACT ISSUES**

Citizens Utilities Company, on behalf of itself and its commercial mobile radio services (CMRS) subsidiaries (collectively, Citizens), by its attorney, hereby submits its comments regarding the information collection and paperwork reduction analysis in the Commission's further notice of proposed rulemaking (FCC 97-254) released July 18, 1997 (FNPRM)¹ in the above-captioned proceeding and shows as follows:

I. INTRODUCTION

Citizens Utilities Company, through divisions and subsidiaries, provides local telecommunications services, electric distribution, natural gas transmission and distribution, and water and waste water treatment services to more than 1,600,000 customer connections in 20 states. Citizens Utilities Company subsidiary incumbent local exchange carriers provide local exchange services in suburban and rural exchange areas in Arizona, California, Idaho, Montana, Nevada,

¹ 62 Fed. Reg. 40,036 (Jul. 25, 1997).

New Mexico, New York, Oregon, Pennsylvania, Tennessee, Utah and West Virginia. In addition, Citizens Telecommunications Company, another Citizens Utilities Company subsidiary, provides interexchange services throughout the nation and competitive local exchange services in several states. Another Citizens Utilities Company subsidiary, Electric Lightwave, Inc., provides competitive local exchange and interexchange services in Arizona, California, Idaho, Minnesota, Nevada, Oregon, Washington, and Utah. Of importance in this proceeding, Citizens Mohave Cellular Company provides cellular services in Arizona.

II. THE FNPRM

The Commission makes three proposals in the FNPRM. First, the Commission proposes to require CMRS licensees to keep for three years materials documenting the basis of their fee payments and to, upon request, make such materials available to the managing director within 30 days. Second, the Commission proposes to require all CMRS licensees claiming to be exempt non-profit entities to submit a current IRS determination of their exempt non-profit status. Third, the Commission proposes to routinely publish in the Federal Register the fees paid by each CMRS licensee and the number of units upon which such fee payment is based.

III. COMMENTS

Scope of Collection

No agency can publish information that it does not possess. The Commission, however, has proposed to do just that. In its third proposal, the Commission proposes to publish annually in the *Federal Register* the regulatory fee paid by each CMRS licensee along with the number of units upon which that fee is based. Earlier in the FNPRM, however, the Commission states that

“documentation on the number of pagers, cellular telephones or PCS units is not available in the Commission’s files.”² It proposes to collect such information from licensees only on a case-by-case basis when the managing director, on delegated authority, requests it from a licensee.³ Hence, unless the Commission, inconsistent with its stated goal of reducing the burden on its fee collection process,⁴ intends to calculate the number of units from the fee or to have the managing director annually request this information from each licensee, it will not have the information it proposes to publish. The alternative is to collect this information from all CMRS licensees. The Commission has not, however, proposed to do so. Nor has it provided an initial Paperwork Reduction Act analysis for such a proposal.

Before OMB approves the data collections proposed in the FNPRM, the Commission should clarify the scope of its proposed data collection and provide an appropriate Paperwork Reduction Act analysis.

Practical Utility

The proposed requirements that licensees maintain for three years records to support the amount of their regulatory fee payments and that licensees make these records available upon request is a reasonable, practical way to ensure that regulatory fee payments are accurate. Citizens has supported this proposal in comments on the merits and supports it here. Similarly, Citizens supports the proposal to require licensees claiming tax exempt status to provide documentation to prove such status. The information collected pursuant to these proposals, in

² FNPRM at ¶2. Citizens notes that such information is not included in FCC Form 600, the license application form.

³ FNPRM at ¶2

⁴ FNPRM at ¶6.

the manner proposed, would allow the Commission to effectively and efficiently police the payment of regulatory fees with little burden to licensees.

On the other hand, the proposed publication of fee payments and the number of CMRS units upon which those fees are based, along with any data collection for the purpose of such publication, has little to recommend it. As Citizens has commented on the merits, such publication will cause significant competitive harm to licensees. Absent such publication, there is no apparent reason for the collection of such data,⁵ especially in light of the Commission's other proposal to collect, on a case-by-case basis, data necessary to confirm the accuracy of fee payments.

The case-by-case collection of support data for the amount of regulatory fees paid strikes a reasonable balance between the Commission's need to ensure that fees are accurately calculated, and the interests of licensees in keeping their paperwork burdens to a minimum and protecting proprietary information from disclosure. Collection of support data for the purpose of publication does not strike such a balance and will have no practical utility.

⁵ Citizens offers these comments without prejudice to its view that the Commission has not clearly proposed to collect such data, even though such collection is necessary so that the data can be published.


IV. SUMMARY

The Commission should clarify the scope of its intended collection and provide a paperwork reduction analysis of the clarified collection. OMB should not approve the collection until the Commission has done so. Further, collection of fee support data from licensees for the purpose of publishing it has no practical utility and should not be approved by OMB.

Respectfully Submitted,

CITIZENS UTILITIES COMPANY

By:



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Its Attorney

August 25, 1997

Certificate of Service

I, John B. Adams, Senior Attorney for Citizens Utilities Company, certify that a copy of the foregoing "Comments of Citizens Communications on Paperwork Reduction Act Issues" has been served upon the following by first class mail this 25th day of August, 1997.



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